



Staff Report

RESOLUTION APPROVING A CONSERVATION EASEMENT AND AN ASSOCIATED OWNERSHIP/OPEN SPACE MANAGEMENT PLAN FOR THE SENDING PARCEL (APN: 043-072-060) IN AN APPROVED FLOOR AREA TRANSFER BETWEEN SAID PARCEL AND A DISCONTIGUOUS RECEIVING PARCEL (APN: 043-111-180) AT 3817 NAUGHTON AVENUE

Honorable Mayor and Council Members:

Summary/Background

On September 28, 2006, Fereydoun Shehabi (applicant) and Jason Strofs (property owner), submitted a joint application for a Floor Area Transfer from Assessor's Parcel 043-072-060 (sending parcel) to Assessor's Parcel 043-111-180 (receiving parcel - 3817 Naughton Avenue). The subject properties are located within the Hillside Residential and Open Space (HRO-2) District on the eastern section of Naughton Avenue, west of Encline Way. According to Section 4.7.11(d) of the City of Belmont Zoning Code, the HRO-2 District allows the permanent transfer of floor area development potential from one site to a non-contiguous site with approval of an Administrative Conditional Use Permit (ACUP) by the Zoning Administrator.

On December 9, 2006, notice of conditional approval of the floor area transfer was published in the San Mateo County Times in accordance with Section 4.7.11(g)(2) of the Belmont Zoning Code (BZO). No appeals were received within the 10-day appeal period. On December 19, 2006, the Zoning Administrator approved the ACUP allowing the Floor Area Transfer, conditioned on City Council acceptance of the conservation easement over the sending parcel. The BZO allows 1,200 square feet to be transferred from the sending lot to the receiving lot for a total development potential of 2,400 square feet on the receiving lot. The applicant intends to construct a 1,200 square-foot addition to the existing 1,200 square-foot home located at 3817 Naughton Avenue and will be required to obtain Single Family Design Review approval by the Planning Commission.

The City's Ground Movement Potential and Geologic Hazard Policy Map of the San Juan Hills Study Area identifies both the sending and receiving parcels as being in a Ps (Potential shallow [less than 10 ft.] landslide failure) which conditionally permits development and roadway expansion. Both the sending and receiving parcels are situated on Naughton Avenue which is a fully developed roadway.

A resolution, including a map indicating the sending and receiving properties, is attached for Council's consideration.

Discussion

With the acceptance and recording of the conservation easement, the findings for a floor area transfer as indicated in the BZO will have been sufficiently met. These findings include that the transfer is consistent with the policies of the San Juan Hills Area Plan and the Geologic Hazards Ordinance. The San Juan Hills Area Plan establishes policies regarding development within the Plan Area. These policies include allowing density transfers in vacant, subdivided areas such as those including, and in the vicinity of, the sending and receiving sites.

It should be noted that the required findings for approval of a floor area transfer are as follows:

- That adequate infrastructure exists or its construction is assured;
- That the pattern of development as a result of the floor area transfer is better than could be achieved through the application of the ordinance without a floor area transfer;
- The establishment of a conservation easement over the entire sending parcel is assured;
- The receiving lot is not in an area designated Md (Major Debris Flow/Landslide) or Pdf (Potential Debris Flow/Landslide) on the current geologic hazards map; and
- All floor area transfer standards shall be met.

All findings can be made in the affirmative.

General Plan/Vision Statement

The transfer of floor area from one lot to another and the establishment of a conservation easement over the sending site would further the more rural, open space/residential character of the area. The floor area transfer and associated conservation easement eliminates the possibility of any future development for the sending parcel. As such, the transfer of floor area potential from the vacant sending parcel to the existing home on the receiving parcel eliminates one new home from potentially being constructed along this section of Naughton Avenue.

The action associated with adopting a conservation easement over the sending parcel also furthers the City's General Plan Goals as follows:

Goal 1015.2

"To preserve and enhance the attractive, family-oriented and tranquil quality of Belmont's residential neighborhoods."

Goal 1015.3

"To preserve significant open spaces, trees, views, waterways, wildlife habitats, and other features of the natural environment."

Goal 1015.4

"To maintain and enhance the appearance of the City through controlling the location, timing, design and landscaping of new development and encouraging renovation of older areas."

Fiscal Impact

None at this time.

Public Contact

1. The City placed a public notice display ad in the San Mateo Times (local newspaper of general circulation) as per Section 4.7.11(g)(2) (Notification of Zoning Administrator Decisions – Floor Area Transfers) of the BZO on December 9, 2006.
2. A notice of intent to approve the ACUP/Floor Area Transfer was mailed to all adjacent property owners.
3. This matter was placed on the agenda and posted as required by the California Government Code.

Conclusion/Recommendation

Staff recommends that the City Council accept the attached conservation easement, thereby completing the floor area transfer. A Resolution approving the Conservation Easement and associated Ownership/Open Space Management Plan is attached for Council review and adoption.

Alternatives

1. Refer back to staff for additional information.

Attachments

- A. City Council Resolution Accepting the Conservation Easement over a vacant parcel known as Assessor's Parcel 043-072-060 as part of an approved Floor Area Transfer
- B. Site Location Map – Sending and Receiving Properties
- C. Draft Conservation Easement/Open Space Management Plan

Respectfully submitted,

Carlos de Melo
Community Development Director

Jack Crist
City Manager

Staff Contact:

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cdemelo@belmont.gov

RESOLUTION APPROVING A CONSERVATION EASEMENT
AND ASSOCIATED OWNERSHIP/OPEN SPACE MANAGEMENT PLAN FOR THE
SENDING PARCEL (APN: 043-072-060) IN AN APPROVED FLOOR AREA TRANSFER
BETWEEN SAID PARCEL AND A DISCONTIGUOUS RECEIVING PARCEL
(APN: 043-111-180) LOCATED AT 3817 NAUGHTON AVENUE

WHEREAS, Fereydoun Shehabi, applicant, and Jason Strofs, property owner, have applied for an Administrative Conditional Use Permit (ACUP) for a Floor Area Transfer from Assessor's Parcel 043-072-060, commonly referred to as Lot 69, Block 122 of Belmont Country Club Properties Subdivision, to Assessor's Parcel 043-111-180, commonly referred to as Lot 7, Block 107 of Belmont Country Club Properties Subdivision, on the eastern section of Naughton Avenue; and,

WHEREAS, pursuant to Section 4.7.11(d) of the City of Belmont Zoning Code, the permanent transfer of floor area development potential in the HRO-2 Zoning District from one site to another discontinuous site along the same roadway and within the same statistical subarea as shown on the San Juan Hills Area Plan shall be permitted upon approval of an Administrative Conditional Use Permit (ACUP) by the Zoning Administrator; and,

WHEREAS, pursuant to Section 4.7.11(g) of the City of Belmont Zoning Code, notice of the Zoning Administrator action on the Floor Area Transfer was sent to adjacent property owners via U.S. mail, as well as the notice made to the general public by publication in the San Mateo County Times on December 9, 2006; and

WHEREAS, no appeals of the administrative approval were received by the City within the required 10-day appeal period; and

WHEREAS, the City Council hereby adopts the staff report dated January 23, 2007 and the facts contained therein as its own findings of fact; and

WHEREAS, the Zoning Administrator finds the required Floor Area Transfer Standards, Section 7.4.11(d)(2) and Findings, Section 4.7.11(d)(3) are made in the affirmative as follows:

- a. *The proposed transfer of density is consistent with the policies of the San Juan Hills Area Plan and the Geologic Hazards Ordinance.*

The transfer is consistent with the goals of the San Juan Hills Area Plan (SJHAP). The goals in the Hillside Residential and Open Space (HROP) Areas include preserving and enhancing the present character of established residential areas. The subject receiving lot is located in a residential area. The transfer of floor area will occur from a vacant lot to the receiving lot (which has an existing home). Establishment of a conservation easement on the sending site will expand the more rural, open residential character of the neighborhood. In addition, the SJHAP also seeks to reflect natural constraints in land use planning by achieving a land use pattern, density and distribution of development that is consistent with the existing slopes and geologic hazards in the undeveloped parts of the San Juan Area. By establishing a conservation easement on the sending parcel, future development on the geologically sensitive site will be prohibited. This finding is affirmed.

- b. *Adequate infrastructure exists or its construction is assured, and for sites requiring road improvement plans, such plans have been approved.*

There is an existing home on the receiving site that is accessed by Naughton Avenue, a fully improved roadway, and already has standard utilities available. This finding is affirmed.

- c. *The pattern of development which would result from the transfer of floor area is better than could be achieved through the application of this ordinance without floor area transfer, due to less grading, less street and utility extension, and better building site locations.*

The proposed development will result in reduced grading by transferring the allowable 1,200 square feet from the sending parcel to the existing home on the receiving parcel, thereby eliminating one potential new home from being constructed along this section of Naughton Avenue. The floor area transfer will result in ultimately less development related disturbance in the area, including reduced grading and utility extension. This finding is affirmed.

- d. *The sending property will be protected from development by the establishment of a conservation easement over its entirety, or be merged with an adjacent lot and a conservation easement established over land equal in area to the sending site, and the ownership and management of such property will be adequately provided for.*

A conservation easement, if accepted by the City Council, will be recorded over the entire sending property. The applicant had indicated a desire to merge the vacant sending parcel with the adjacent single family residential parcel to the south (3830 Naughton Avenue). This finding is affirmed.

- e. *The proposed building sites will not be in an area designated Md or Pdf on the current geologic hazards map.*

The City's Ground Movement Potential and Geologic Hazard Policy Map of the San Juan Hills Study Area identifies both the sending and receiving parcels as Ps (Potential shallow [-10'] landslide failure) which conditionally permits development and roadway expansion. This finding is affirmed.

- f. *All floor area transfer standards will be met.*

Prior to issuance of building permits for expansion of the existing dwelling on the receiving parcel, all floor area transfer standards shall be met.

WHEREAS, the City Council is required to approve the conveyance of a conservation easement on the property known as Assessor's Parcel 043-072-060, as described in Attachment C, and such conveyance must be recorded prior to issuance of a building permit for construction of any transferred floor area to 3817 Naughton Avenue; and,

WHEREAS, the City Council did hear and use their independent judgment and considered all said reports, recommendations and testimony herein above set forth.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Belmont hereby approves the acceptance of a conservation easement over Assessor's Parcel 043-072-060 as part of an approved Floor Area Transfer, subject to the standards identified in the City of Belmont Zoning Code.

* * * * *

I hereby certify that the foregoing resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting held thereof on January 23, 2007 by the following vote:

AYES, COUNCILMEMBERS: _____

NOES, COUNCILMEMBERS: _____

ABSTAIN, COUNCILMEMBERS: _____

ABSENT, COUNCILMEMBERS: _____

RECUSED, COUNCILMEMBERS: _____

CLERK of the City of Belmont

APPROVED:

MAYOR of the City of Belmont

**ATTACHMENT C – DRAFT CONSERVATION EASEMENT/OPEN SPACE
MANAGEMENT PLAN**

WHEN RECORDED SEND TO:
City of Belmont Community Development Dept.
One Twin Pines Lane, Suite 310
Belmont, CA 94002

(space above for use by the County Assessor)

GRANT DEED

CONSERVATION EASEMENT

For valuable consideration, we, Jason Strofs and Monica S. Divakaruni, hereby grant to the City of Belmont, a governmental subdivision of the State of California, Grantee, and its governmental successor or successors, a conservation easement, as defined herein, over a portion of that real property described in Exhibit “1”, attached hereto and made a part hereof.

Conservation easement is defined to mean, and refer to, the prohibition of any and all construction, development, or improvement except as otherwise permitted herein. The conservation easement is and shall be a form of negative easement which shall run with the said property and shall bind the current owner and any future owners of all or any portion of said property. Use of, and construction within, the easement area shall require approval by the Grantee, or its successor, except the following: natural open space, landscaping and irrigation systems, footpaths, underground utilities and utility easement areas, drainage facilities and systems, perimeter walls and/or fencing, and all reasonable and necessary incidents to any of the foregoing.

Any owner or owners of all or any portion of said property desiring to develop any improvement not listed herein shall first obtain written approval by the Grantee, or its successor, and shall submit to such entity a written proposal describing the nature, extent, and location of such improvement. In the event of a disapproval of proposed construction by the Grantee, or its successor, said proposed construction shall not be performed. Grantee or its successor may condition its approval of any proposed construction upon prior to, or subsequent performance of, such conditions as Grantee may deem appropriate.

Grantor Signature: _____
Typed name: Jason Strofs

Grantor Signature: _____
Typed name: Monica S. Divakaruni

Grantee Signature: _____
Typed name: MAYOR, City of Belmont